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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,257	01/07/2005	Antoine Bassompierre	W51.12-0013	8905

27367 7590 08/21/2008  
WESTMAN CHAMPLIN & KELLY, P.A.  
SUITE 1400  
900 SECOND AVENUE SOUTH  
MINNEAPOLIS, MN 55402-3244

EXAMINER
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BHATTACHARYA, SAM

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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08/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/500,257	<b>Applicant(s)</b> BASSOMPIERRE ET AL.	
	<b>Examiner</b> Sam Bhattacharya	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO0158189 to Philippe et al. in view of Lundby et al. (US 2004/0132477)

Regarding claims 21 and 37-38, Philippe discloses a data transmission method in a radio communication network comprising: at least one base station (page 7, lines 9-22); and at least one terminal adapted to individually and periodically transmit binary information on an uplink radio channel, to at least one of the said base stations called the first base station, wherein the method comprises: transmitting first information through the radio channel for controlling the transmission power of the said first base station (page 10, lines 19-28); and transmitting second information through the radio channel designed to a purpose other than controlling the power of the said first base station (page 8, lines 4-11).

Philippe fails to disclose that the second information is inserted among the first information. However, Lundby discloses this feature in paragraphs 86 and 90. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Philippe by incorporating this feature in Lundby for the purpose of saving bandwidth in transmitting messages.

Regarding claim 22, Philippe discloses that the said first base station manages at least one mobile telecommunication network cell (page 9, lines 14-19).

Regarding claim 23, Philippe discloses that the said first base station sends at least one part of the said received second information to a communication equipment capable of transmitting data to the said terminal, and wherein the said communication equipment processes the said at least one part of the said second information (page 9, lines 14-19).

Regarding claim 24, Philippe discloses that when the said communication equipment is in communication with the said terminal, it adjusts the data radio transmission power to be sent to the said terminal as a function of the result of the said processing (page 9, line 33 – page 10, line 13).

Regarding claim 25, Philippe discloses that the said communication equipment communicates with the said terminal on a single directional channel used to transmit data from the said communication equipment to the said terminal (page 16, lines 19-28).

Regarding claim 26, Philippe discloses that the said communication equipment is adapted to sending data using a multiple carrier modulation (OFDM) (page 20, lines 7-17).

Regarding claim 27, Philippe discloses that the said communication equipment supports communications according to a protocol compatible with the HIPERLAN/2 standard and/or the IEEE 802.11 standard (page 7, lines 8-17).

Regarding claim 28, Philippe discloses that the said equipment is a base station distinct from the said first base station (page 16, lines 19-28).

Regarding claim 29, Philippe discloses that the said equipment is a terminal (page 16, lines 19-28).

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Regarding claim 30, Philippe discloses that the said other purpose comprises controlling the transmission power of a base station distinct from the said first base station (page 9, line 33 – page 10, line 13).

Regarding claim 31, Philippe discloses that the said other purpose includes acknowledgement of data transmitted by a base station to the said terminal on a radio channel, the said acknowledgement indicating whether or not data were correctly received by the said terminal (page 19, lines 15-27).

Regarding claim 32, Philippe discloses that the said other purpose is one of the purposes selected from the group consisting of: data transmissions to a base station distinct from the said first base station; management of time slaving between a base station and the said terminal; management of frequency slaving between a base station and the said terminal; and control of the data flow sent to and/or from the said terminal (page 10, lines 19-28).

Regarding claim 33, Philippe discloses that bit positions of the said first and second information are predetermined (page 22, lines 7-19).

Regarding claim 34, Philippe discloses that bit positions of the said first and second information are determined dynamically (page 22, lines 7-19).

Regarding claim 35, Philippe discloses that the said second information represents not more than 10% of the said elementary information (page 10, lines 14-28).

Regarding claim 36, Philippe discloses that the said second information represents not more than 1% of the said binary information (page 10, lines 14-28).

***Response to Arguments***

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Bhattacharya whose telephone number is (571) 272-7917. The examiner can normally be reached on Weekdays, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sb

/Sam Bhattacharya/  
Primary Examiner, Art Unit 2617